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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,688	05/16/2001	Tatsumi Hiramoto	208674US0	9204

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EXAMINER

SHAY, DAVID M

ART UNIT

PAPER NUMBER

3739

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

69/855,688

Applicant(s)

Hiramoto et al

Examiner

J. Shay

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE — 3 — MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on April 25, 2003.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 6, 7, 14, and 16-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jack et al.

There is nothing to prevent the lamp of Jack et al from shining on a jar or puddle of photosensitizer.

Claims 1, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jack et al in combination with TOKYO. Jack et al teach an arc lamp as claimed except for the use of Rubidium and Potassium therein. TOKYO teach adding Rubidium halide and Potassium halide to a tube employing Sodium halide. It would have been obvious to the artisan of ordinary skill to use Rubidium halide and Potassium halide in the bulb of Jack et al, since this provides a more stable output and longer bulb life, as taught by TOKYO, thus producing a device such as claimed.

Claims 8-10, 13-15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jack et al in combination with Clark. Jack et al teach a lamp with the elements and concentrations as claimed. Clark teaches a means for selecting a wavelength in an irradiation apparatus. It would have been obvious to the artisan of ordinary skill to employ the wavelength selection means of Clark in the device of Jack et al, since this is desirable for photodynamic therapy, thus producing and making a device such as claimed.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jack et al in combination with TOKYO as applied to claims 1, 4, and 5 above, and further in view of Clark. The teachings of Clark and the motivation for combination thereof are essentially those

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already set forth above. Thus it would have been obvious to the artisan of ordinary skill to combine these old and well known teachings to produce a device such as claimed.

Applicant's arguments filed April 25, 2002 have been fully considered but they are not persuasive. The arguments are not convincing for the reasons set forth above.

Applicant's arguments with respect to claims 8-20 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to David Shay at telephone number 308-2215.

Shay/DL

June 17, 2003



DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330